

# HOUSE . . . . . No. 2499

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By Mr. Larkin of Pittsfield, petition of Peter J. Larkin relative to competitive motor carrier transportation under the law regulating the tax on special fuels. Revenue.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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### AN ACT RELATIVE TO COMPETITIVE MOTOR CARRIER TRANSPORTATION IN MASSACHUSETTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 60A of the General Laws, as appearing in  
2 the 1996 Official Edition, is hereby amended by adding after  
3 section 4 the following new section:—

4 Section 4A. (a) The excise imposed by section 1 of this chapter  
5 shall not apply to a motor vehicle registered on an apportioned or  
6 allocation basis in accordance with the International Registration  
7 Plan pursuant to the provisions of section two of chapter ninety;  
8 provided, however, that the owner has paid a registration fee that  
9 is calculated using a registration fee for the commonwealth which  
10 included a sum equal to the excise that would be imposed on such  
11 motor vehicle or trailer under this chapter had the motor vehicle  
12 or trailer been registered in the commonwealth.

13 (b) Fees received by the registrar as registration fees attribut-  
14 able to payments in lieu of excise from owners registered under  
15 the International Registration Plan shall be credited to each city  
16 and town in that proportion which the amount of excise collected  
17 by the city or town during the year bears to the total excise col-  
18 lected by all cities and towns.

1 SECTION 2. Section 1 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 striking out the section in its entirety and inserting in place thereof  
4 the following:—

5 Section 1. The following words and phrases, as used in this  
6 chapter, shall have the following meanings, unless the context oth-  
7 erwise requires:—

8 (a) “Commissioner”, the commissioner of revenue.

9 (b) “Liquefied gas”, that type of special fuels which is a com-  
10 bustible gas and exists in the gaseous state at a temperature of 60  
11 degrees Fahrenheit and a pressure of 14.7 pounds per square inch  
12 absolute.

13 (c) “Motor vehicle”, shall include any vehicle propelled by any  
14 power other than muscular, except boats, tractors used exclusively  
15 for agricultural purposes and such vehicles as run only on rails or  
16 tracks.

17 (d) “Permissive Supplier”, any person that does not meet the  
18 definition of special fuel supplier, but sells or distributes special  
19 fuels from another state within this commonwealth.

20 (e) “Qualified Motor Vehicle”, shall mean a motor vehicle used,  
21 designed, or maintained for transportation of persons or property  
22 and (i) having two axles and a gross vehicle weight or registered  
23 gross vehicle weight exceeding 26,000 pounds or 11,797 kilo-  
24 grams; or (ii) having three or more axles regardless of weight; or  
25 (iii) is used in combination, when the weight of such combination  
26 exceeds 26,000 pounds or 11,797 kilograms gross vehicle or reg-  
27 istered gross vehicle weight. “Qualified Motor Vehicle” does not  
28 include recreational vehicles.

29 (f) “Qualified Purchaser”, any person who (i) holds a supplier  
30 license on the effective date of this act; and (ii) who purchased not  
31 less than two hundred thousand gallons of special fuels from a  
32 special fuel licensee in the previous calendar year, and (iii) who  
33 has filed a bond with the department pursuant to the provisions of  
34 section two of this chapter; and (iv) can show financial responsi-  
35 bility, satisfactory to the Department, to defer payment of the  
36 special fuels tax to its supplier.

37 (g) “Received”, shall mean the removal of special fuels from  
38 the refinery or terminal in this commonwealth or the first entry  
39 into this commonwealth from another state or foreign country for  
40 sale, distribution or use.

41 (h) “Special Fuel Exporter”, any person, other than a special  
42 fuel supplier, that receives special fuels in this commonwealth and

43 subsequently sells or distributes it to other persons outside this  
44 commonwealth.

45 (i) “Special Fuel Licensee”, any person holding a properly  
46 issued “Special Fuel Supplier”, “Special Fuel Exporter” or “Per-  
47 missive Supplier” license.

48 (j) “Special fuels”, shall mean and include all combustible  
49 gasses and liquids, used or sold for use in an internal combustion  
50 engine or motor for the generation of power to propel motor vehi-  
51 cles registered for use on the public highways, except such fuels  
52 defined as “fuel” in paragraph (d) of section one of chapter sixty-  
53 four A.

54 (k) “Special Fuel Supplier”, any person that imports or acquires  
55 immediately upon import into this commonwealth special fuels by  
56 pipeline or vessel or produces, manufactures or refines special  
57 fuels within this commonwealth and sells or distributes it within  
58 this commonwealth or otherwise acquires special fuels for distrib-  
59 ution on which there has been no previous taxable sale or use.

60 (l) “Terminal”, shall mean a fuel storage and distribution  
61 facility that is supplied by pipeline or vessel and from which  
62 special fuels may be removed for distribution at the terminal rack,  
63 but not into the fuel supply tank of a motor vehicle.

64 (m) “Two party exchange”, shall mean a transaction in which  
65 special fuels are transferred between special fuel licensees, and

66 (i) in which such transaction includes a transfer from the  
67 special fuel licensee that holds the original inventory position for  
68 the special fuels in the terminal as reflected on the records of the  
69 terminal operator, and (ii) the exchange transaction is simulta-  
70 neous with removal from the terminal by the receiving special fuel  
71 licensee, and (iii) the terminal operator in its books and records  
72 treats the receiving special fuel licensee as the supplier who  
73 removes the product across a terminal rack for state tax reporting  
74 purposes.

75 (n) “Use”, shall mean and include, in addition to its usual  
76 meaning, the receipt of special fuels by any person into a fuel  
77 supply tank of a registered motor vehicle or into a receptacle from  
78 which special fuels are supplied by any person to his own or other  
79 registered motor vehicles.

80 (o) “User of special fuels”, any person, including a special fuel  
81 licensee or user-seller, who owns or leases any special fuels pro-

82 propelled motor vehicle operated over the highways of this common-  
83 wealth.

84 (p) “User Seller”, any person who sells or delivers special  
85 fuels, dispenses special fuels into the fuel tanks or attached motor  
86 vehicles, including any such person who dispenses special fuels  
87 for consumption in such motor vehicles owned, leased or operated  
88 by him or who otherwise distributes special fuels to end users.

1 SECTION 3. Section 2 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 striking out the section in its entirety and inserting in place thereof  
4 the following:—

5 The commissioner may grant licenses to persons as a Special  
6 Fuel Supplier, Special Fuel Exporter, or Permissive Supplier of  
7 special fuels in accordance with section sixty-seven of chapter  
8 sixty-two C.

9 No person other than a licensed special fuel supplier shall  
10 maintain storage facilities for tax-free undyed special fuels and  
11 dispense special fuels therefrom unless such person is the holder  
12 of an uncanceled license as a special fuel supplier issued by the  
13 commissioner.

14 No person shall sell or deliver special fuels within this com-  
15 monwealth to a licensed Special Fuel Supplier unless such person  
16 is the holder of an uncanceled license as a Special Fuel Exporter  
17 issued by the commissioner.

18 No person owning or leasing a motor vehicle propelled by  
19 special fuels shall use the highways of this commonwealth with  
20 said motor vehicle unless such person is the holder of an uncanceled  
21 license as a Permissive Supplier of special fuels issued by  
22 the commissioner for each such motor vehicle. The provisions of  
23 this paragraph shall not apply to non-commercial passenger vehi-  
24 cles having a fuel tank capacity of not more than twenty-five gal-  
25 lons, self-propelled campers or auto homes used exclusively for  
26 non-commercial purposes. Whoever violates the provisions of this  
27 paragraph shall be punished by a fine of not more than one hun-  
28 dred dollars. Any person charged with such a violation may, in  
29 writing without his presence in court, waive his right to trial,  
30 plead guilty and pay the maximum statutory penalty. Such waiver  
31 of the right to trial and plea of guilty shall be made on a form

32 approved by the administrative justice of the district court depart-  
33 ment and shall be provided to each defendant by the appropriate  
34 division of the court department at the time and in the same  
35 manner as the issuance of any summons. Any person who desires  
36 to waive his right to trial and to plead guilty without his appear-  
37 ance in court shall return such written waiver and plea together  
38 with payment of the maximum statutory penalty before the return  
39 day of such summons.

40 The commissioner as a condition of issuing any license under  
41 this section may require that the applicant state, under the penal-  
42 ties of perjury, that he will purchase special fuels or accept  
43 delivery of special fuels only from a person licensed under this  
44 chapter, and if a special fuel exporter neglects or refuses to pro-  
45 vide on his application that he is licensed to deal in special fuels  
46 in each destination state it shall be grounds for refusal to grant  
47 such a license.

48 Except as provided in this chapter, it shall be unlawful for any  
49 person to act as a special fuel exporter unless he is a holder of a  
50 special fuel exporter license issued to him by the department, nor  
51 shall any person import or cause to be imported special fuels to  
52 other than a special fuel supplier for sale or distribution unless he  
53 is a holder of a permissive supplier license.

54 Each special fuel licensee shall provide a bond executed by him  
55 as principal, and by a corporation qualified under the laws of this  
56 commonwealth as surety, payable to the commonwealth of Massa-  
57 chusetts, and conditioned upon the faithful performance of all the  
58 requirements of this chapter and upon the punctual payment of all  
59 excise taxes, penalties and interest due to the commonwealth. The  
60 total amount of the bond or bonds of any special fuel licensee  
61 must be fixed by the department at not less than three times the  
62 estimated maximum monthly tax, determined in such a manner as  
63 deemed appropriate by the department. If the department deter-  
64 mines that a licensee is habitually delinquent in the payment of  
65 amounts due to the department, it may increase the amount of his  
66 security to not more than five times the estimated maximum  
67 monthly tax. When cash or a savings certificate, certificate of  
68 deposit or investment certificate is used, the amount required must  
69 be rounded off to the next larger integral multiple of \$10.00. No  
70 recovery on any bond, nor the execution of any new bond, nor the

71 suspension or revocation of any special fuel license affects the  
72 validity of any bond. In lieu of a bond each licensee may deposit  
73 with the Treasurer of the commonwealth, under such terms as the  
74 department may prescribe, a like amount of lawful money of the  
75 United States or any other form of security authorized by this  
76 section. If security is provided in the form of a savings certificate,  
77 certificate of deposit or investment certificate, the certificate must  
78 state that the amount is unavailable for withdrawal except upon  
79 order of the Department. If the department determines that three  
80 times the estimated monthly tax would require a licensee to pro-  
81 vide a bond of more than \$2,000,000, the department may reduce  
82 the requirements for the bond to not less than \$2,000,000 upon the  
83 licensee's faithful performance of all of the requirements of this  
84 chapter and the punctual payment of all taxes due the common-  
85 wealth of this state for the three preceding calendar years.

1 SECTION 4. Section 3 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 striking out the section in its entirety and inserting in place thereof  
4 the following:—

5 Each licensee shall keep a complete and accurate record of all  
6 purchases, sales and use of special fuels, including the name and  
7 address of the person accepting delivery, its place and date of  
8 delivery, the number of gallons of each type of special fuels pur-  
9 chased, sold and used, the gallons upon which dye was added and  
10 the complete and accurate record of the number of gallons  
11 imported, produced, refined, manufactured or compounded and  
12 the date of the importation, production, refining, manufacturing or  
13 compounding.

14 Every licensee shall also present with every consignment of  
15 special fuels or delivery of the same to any person other than him-  
16 self a written statement containing the date of the sale or use  
17 within the commonwealth, the date of delivery, the name of the  
18 person making the delivery and the name of the person receiving  
19 the same, the gross sales price and the number of gallons of each  
20 type of special fuels delivered, color and concentration of dye  
21 added, and shall retain a duplicate of each such statement. In the  
22 case of use of special fuels by the licensee himself, he shall keep  
23 an accurate record of all the deliveries received by him and the

24 names and addresses of the persons from whom he received the  
25 same, giving the dates of deliveries, the cost of each type of  
26 special fuels delivered and the number of gallons of each type  
27 involved in each delivery.

28 Such records and written statements shall be in such form as  
29 the commissioner shall prescribe and shall be preserved by said  
30 licensees for a period of three years and shall be offered for  
31 inspection at any time upon oral or written demand by the com-  
32 missioner or his duly authorized agent.

33 Each special fuel licensee shall prepare and provide for every  
34 sale of special fuels a shipping document setting on its face the  
35 origin and destination of the special fuels and the gallons being  
36 shipped and the name and address of the purchaser. The shipping  
37 document shall also set on its face the following, "DYED DIESEL  
38 FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE  
39 USE", for each delivery of dyed untaxed special fuels. Every  
40 person transporting special fuels on public highways shall carry  
41 on board the shipping document issued by the licensee. Each  
42 person receiving special fuels from a licensee shall obtain a copy  
43 of the shipping paper and shall retain such copy for a period of 36  
44 months.

1 SECTION 5. Section 4 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 striking out the section in its entirety and inserting in place thereof  
4 the following:—

5 Section 4. All undyed special fuels sold or used within the com-  
6 monwealth shall have a tax imposed at the rate of seventeen cents  
7 upon each gallon.

8 All untaxed special fuels sold or used within the common-  
9 wealth shall have dye added by the special fuel supplier or per-  
10 missive supplier at the terminal rack at the time of sale. Such dye  
11 shall comply with the United States Environmental Protection  
12 Agency requirements and shall be the same dye concentration  
13 required by the Internal Revenue Code.

14 Every special fuel supplier shall, not later than the last day of  
15 each calendar month render to the Department a statement of all  
16 special fuels received, all special fuels sold, distributed or used by  
17 him in this commonwealth, all fuels sold, distributed or used in

18 which dye was added and no tax was collected and all special  
19 fuels sold for export to another state and pay an excise at the rate  
20 specified in the preceding paragraph on all special fuels sold, dis-  
21 tributed or used on which dye was not added in the manner and  
22 time prescribed in this chapter. The tax imposed wherein shall be  
23 measured by invoiced gallons of special fuels sold or distributed,  
24 provided that two party exchanges between special fuel suppliers,  
25 as defined in section four, shall not be considered a taxable  
26 exchange. The tax due on special fuels acquired through two party  
27 exchanges shall be imposed at the time the fuel is sold or distrib-  
28 uted by the receiving special fuel supplier in the manner and time  
29 prescribed in this chapter.

30 Every special fuel exporter shall, not later than the last day of  
31 each calendar month render to the Department a statement of all  
32 special fuels received tax-free for export, all special fuels sold,  
33 distributed or used by him in the commonwealth, and all special  
34 fuels sold for export to another state and provide a detailed listing  
35 of the names, addresses and quantity of fuel sold or distributed for  
36 export to another state and pay an excise at the tax rate specified  
37 in the first paragraph of this section on all special fuels acquired  
38 tax-free and sold, distributed or used within this commonwealth in  
39 the manner and time prescribed in this chapter. The tax imposed  
40 wherein shall be measured by invoiced gallons of special fuels  
41 sold or distributed.

42 Every special fuel permissive supplier shall, not later than the  
43 last day of each calendar month render to the Department a state-  
44 ment of all special fuels sold, distributed or used by him in this  
45 commonwealth, all fuel sold, distributed or used in which dye was  
46 added and no tax was collected and pay an excise at the rate speci-  
47 fied in the first paragraph of this section on all special fuels sold,  
48 distributed or used in this commonwealth on which dye was not  
49 added in the manner and time prescribed in this chapter. The tax  
50 imposed wherein shall be measured by invoiced gallons of special  
51 fuels sold or distributed.

52 Notwithstanding the foregoing, the tax per gallon payable upon  
53 each gallon of liquefied gas shall be separately determined by the  
54 commissioner utilizing the same procedures as those used for fuel  
55 under chapter 64A and such tax per gallon as so determined shall  
56 apply to each gallon of liquefied gas sold or used by a licensee in

57 the commonwealth during the calendar month covered by the  
58 return; provided, however, that there shall be no minimum tax per  
59 gallon as provided in said chapter 64A.

60 Any report return or remittance to cover a payment which is  
61 transmitted through the United States Post Office shall be deemed  
62 filed or received by the department on the date shown by the post  
63 office cancellation mark stamped on the envelope or on the date it  
64 was mailed if proof satisfactory to the department establishes the  
65 return or remittance was timely deposited in the United States  
66 Post Office and properly addressed to the department.

67 All reimbursements on special fuels exempt from tax and not  
68 containing dye shall be applied for through the refund process  
69 established in section 5 of Chapter 64E.

70 Special fuels sold by a special fuel supplier to a licensed special  
71 fuel exporter for export to another state shall not be subject to tax  
72 imposed by this section provided that the supplier obtains the  
73 name, address and valid license number of the special fuel  
74 exporter and places such information on the invoice and shipping  
75 documents covering such sale.

76 The tax provided for by this chapter must be paid by special  
77 fuel licensees. A special fuel licensee shall remit the excise tax he  
78 collects from all undyed special fuels sold or distributed from the  
79 terminal in this commonwealth with the monthly return filed pur-  
80 suant to this section. The tax paid by a special fuel user must be  
81 computed by multiplying the tax rate per gallon specified in the  
82 first paragraph of this section by the number of gallons of special  
83 fuels consumed by him in the propulsion of motor vehicles on the  
84 highways of this commonwealth, then subtracting the amount of  
85 tax paid on special fuels purchased in the commonwealth.

86 At the election of a qualified purchaser, the supplier or permis-  
87 sive supplier shall not require payment of the special fuels tax  
88 from the purchaser at the time of delivery. The election shall be  
89 conditioned upon the purchaser remitting all taxes due the sup-  
90 plier or permissive supplier by electronic funds not later than  
91 three days prior to the date the remittance is due the common-  
92 wealth. Each person that desires to make an election under this  
93 subsection shall present evidence of the purchaser's status to the  
94 supplier or permissive supplier. Each qualified purchaser will be  
95 issued an identification number by the Department evidencing

96 their eligibility. The department may require a qualified purchaser  
97 to file with the department a bond in accordance with the provi-  
98 sions of section 2 of this chapter. The Department may rescind the  
99 purchaser's qualification for just cause and in such cases shall  
100 notify all licensees. In the event a qualified purchaser fails to  
101 remit on a timely basis the special fuels tax to its supplier, the  
102 supplier shall cease any continued tax deferred sales of special  
103 fuels to the purchaser and notify the department within ten busi-  
104 ness days. The supplier shall not resume with tax deferred sales of  
105 special fuels to the purchaser until notified by the department.  
106 Upon meeting said requirements, the supplier may then deduct the  
107 amount of the uncollected special fuels tax due from the purchaser  
108 from the subsequent monthly return filed pursuant to this section.  
109 The department, upon the receipt of the notification of such  
110 failure of a purchaser to remit the special fuels tax to its supplier,  
111 shall immediately rescind the purchaser's qualification to defer  
112 payment of the tax. The department may then proceed with  
113 recovery of the special fuels tax due from the purchaser either  
114 through a structured agreement with the department or as a  
115 recovery action against the bond the purchaser has filed with the  
116 department, at the discretion of the commissioner.

1 SECTION 6. Section 5 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 striking out the section in its entirety and inserting in place thereof  
4 the following:—

5 Section 5. Any person who shall buy special fuels on which an  
6 excise has been paid and no dye has been added, and shall con-  
7 sume the same in any manner except in the operation of motor  
8 vehicles either upon or over highways or upon or over any turn-  
9 pike constructed by the Massachusetts Turnpike Authority in  
10 accordance with chapter three hundred and fifty-four of the acts of  
11 nineteen hundred and fifty-two, as amended, whether or not such  
12 vehicles are registered under the provisions of section five of  
13 chapter ninety, shall be reimbursed the amount of said excise in  
14 the manner and subject to the conditions hereinafter set forth.

15 All claims for reimbursement shall be for not less than one  
16 dollar, shall be made by affidavit in such form and containing  
17 such information as the commissioner shall prescribe, shall be

18 accompanied by original invoices or sales receipts of special  
19 fuels. All claims for reimbursement shall be filed with the com-  
20 missioner within two years from the date of purchase or invoice of  
21 special fuels. The commissioner may require such further infor-  
22 mation as he shall deem necessary for the determination of such  
23 claims, and shall submit all claims approved by him to the comp-  
24 troller for certification; and the amount approved by the commis-  
25 sioner and certified as aforesaid shall be paid forthwith from the  
26 proceeds of the excise tax levied under this chapter, without spe-  
27 cific appropriation.

28 Reimbursement under this section shall include special fuels  
29 bought by any person engaged in the business of farming on  
30 which an excise has been paid and no dye has been added, where  
31 such special fuels is consumed for farm purposes and is eligible  
32 for refund of the federal special fuels tax paid on account of such  
33 fuel pursuant to section sixty-four hundred and twenty of the Fed-  
34 eral Internal Revenue Code. Special fuels tax collected by a  
35 special fuel supplier on special fuels removed from the terminal  
36 and exported to another state or foreign country shall be refunded  
37 under rules adopted by the Department.

38 Notwithstanding the foregoing provisions of this section, any  
39 person who shall buy any special fuels for the operation of any  
40 passenger car, ambulance, hearse, motorcycle, or light truck upon  
41 or over any turnpike constructed by the Massachusetts Turnpike  
42 Authority in accordance with chapter three hundred and fifty-four  
43 of the acts of nineteen hundred and fifty-two, as amended, on  
44 which an excise has been paid or is chargeable under this chapter  
45 shall be reimbursed the amount of said excise in the manner and  
46 subject to the conditions hereinafter set forth. Such toll receipts  
47 given to users of said turnpike or invoices rendered to such users  
48 by said Authority shall be accepted by the commissioner as evi-  
49 dence of the use on said turnpike of special fuels in the proportion  
50 of one gallon for each fifteen miles of indicated travel by pas-  
51 senger cars, ambulances, hearses, motorcycles, and light trucks.  
52 No claims for reimbursement for tax on special fuels consumed on  
53 said turnpike shall be allowed unless it shall appear from said toll  
54 receipts or invoices and from said invoices or sales receipts of  
55 special fuels that the purchase of the special fuels which is the  
56 basis for the claim of reimbursement took place on the same or

57 any one of the three preceding calendar days as the travel on said  
58 turnpike or unless evidence satisfactory to the commission is fur-  
59 nished that such special fuels were transferred from bulk to the  
60 vehicle tank within the same period. The commissioner may  
61 require such further information as he shall deem necessary for  
62 the determination of such claims, and shall submit all claims  
63 approved by him to the comptroller for certification; and the  
64 amount approved by the commissioner and certified as aforesaid  
65 shall be paid forthwith from the proceeds of the excise tax levied  
66 under this chapter, without specific appropriation.

67 Nothing in this section is to be construed as to grant a reim-  
68 bursement of the excise paid in accordance with the provisions of  
69 this chapter for the operation of Qualified Motor Vehicles, as  
70 defined in this section, upon or over highways or upon or over any  
71 turnpike constructed by the Massachusetts Turnpike Authority in  
72 accordance with chapter three hundred and fifty-four of the acts of  
73 nineteen hundred and fifty-two, as amended.

1 SECTION 7. Section 6 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 inserting the following language:—

4 Every person who consumes tax-free dyed fuel for a non-  
5 exempt purpose shall remit the tax owing with respect to the non-  
6 exempt gallons by filing a monthly report and remitting the tax to  
7 the department in the same manner as a special fuel supplier.

8 All special fuels held by a special fuel supplier, user-seller or  
9 user, free of tax, shall be subject to a one-time inventory tax. Per-  
10 sons subject to the inventory tax shall take an inventory of all  
11 special fuels in their possession to determine the number of gal-  
12 lons held in storage on the effective date of this act. Such persons  
13 shall file a report with the Department showing the number of gal-  
14 lons held in storage and pay a tax not more than thirty days after  
15 the inventory date based upon the gallons held in storage times the  
16 tax rates specified in section 4 of chapter 64E.

1 SECTION 8. Section 10 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 adding at the end thereof the following paragraph:—

4 No person shall import, sell, use, deliver or store special fuels  
5 in this commonwealth to which dye has not been added in accor-  
6 dance with this chapter or to which tax has not been imposed by  
7 this chapter. A special fuel supplier shall be exempt from these  
8 provisions with respect to special fuels imported by pipeline or  
9 other vessel and stored within the supplier's terminal facility in  
10 this commonwealth. No person shall operate or maintain a motor  
11 vehicle on any public highway in this commonwealth with special  
12 fuels containing dye, as provided by section 4 of this chapter in  
13 the fuel supply tank for the vehicle. It shall be presumed that all  
14 undyed special fuels received, sold or distributed in this common-  
15 wealth is to be sold for use in propelling a motor vehicle.

1 SECTION 9. Section 12 of chapter 64E of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 adding at the end thereof the following paragraph:—

4 The Department shall have the authority to seal a special fuels  
5 pump if dyed special fuels are being placed into the fuel supply  
6 tank of a highway motor vehicle. Before sealing the pump, the  
7 Department must send a notice by registered or certified mail to  
8 the person operating such special fuels pumps at his last known  
9 address ordering him to appear before the Department at a time  
10 not less than 10 days after the mailing of the notice and show  
11 cause why the pump should not be sealed.

1 SECTION 10. Section 14 of chapter 64E of the General Laws,  
2 as appearing in the 1996 Official Edition, is hereby amended by  
3 striking out after the words "to be a" in line 1 the words "supplier  
4 or user seller" and inserting in place thereof the following:—  
5 special fuel licensee.

1 SECTION 11. Section 15 of chapter 64E of the General Laws,  
2 as appearing in the 1996 Official Edition, is hereby amended by  
3 striking out after the words "other than a" in line 2 the words  
4 "licensee under" and inserting in place thereof the following:—  
5 special fuel supplier as defined in.

1 SECTION 12. Section 3 of chapter 64F of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by

3 striking out the first paragraph and inserting in place thereof the  
4 following paragraph:—

5 Section 3. Any person who, having acquired fuel or special  
6 fuels outside the commonwealth, shall use the same for the  
7 propulsion of motor vehicles upon or over the highways of the  
8 commonwealth or upon or over any turnpike constructed by the  
9 Massachusetts Turnpike Authority in accordance with chapter  
10 three hundred and fifty-four of the acts of nineteen hundred and  
11 fifty-two, as amended, or who has in his possession fuel or special  
12 fuels so acquired for such use, including persons who although  
13 not residents of the commonwealth shall regularly or habitually  
14 use and operate motor vehicles over the highways and turnpikes  
15 of the commonwealth, shall be subject to an excise for the privi-  
16 lege of using said highways at the tax per gallon pursuant to the  
17 provisions of section four of chapter sixty-four E.

1 SECTION 13. Section 6 of chapter 64F of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended in lines  
3 3 and 4 by striking out the words “determined by the commis-  
4 sioner under chapter sixty-four A” and inserting in place thereof  
5 the following:— pursuant to the provisions of section four of  
6 chapter sixty-four E.

1 SECTION 14. Section 6 of chapter 64H of the Massachusetts  
2 General Laws, as appearing in the 1996 Official Edition, is hereby  
3 amended by adding at the end thereof the following:—

4 (rr) Sales of motor vehicles known as tractors as defined in  
5 section 1 of chapter 90 with a registered gross vehicle weight of  
6 thirty-three thousand pounds or greater and used exclusively for  
7 the interstate or intrastate transportation of freight and to conduct  
8 commerce.

9 (ss) Sales of semi-trailers as defined in section 1 of chapter 90  
10 used for the conduct of commerce in conjunction with motor vehi-  
11 cles with a registered gross vehicle weight of thirty-three thousand  
12 pounds or greater used exclusively for the interstate or intrastate  
13 transportation of freight and to conduct commerce.

1 SECTION 15. Notwithstanding any general or special law to  
2 the contrary, the Department of Revenue shall conduct an audit of

3 the reports submitted to the commissioner under the International  
4 Fuel Tariff Agreement. Said audit shall begin on or before January  
5 1, 1999 and conclude no later than December 31, 1999. The  
6 results of said audit shall be made available to the house and  
7 senate committees on ways and means and the joint committee on  
8 taxation no later than January 31, 2000. Said audit shall include,  
9 but not be limited to, a specific emphasis on the recent decline in  
10 revenue to the commonwealth through the International Fuel  
11 Tariff Agreement system.

1 SECTION 16. Notwithstanding any general or special law to  
2 the contrary, including the provisions of Section 68 of Chapter 11  
3 of the Acts of 1997, all provisions of this act shall remain in effect  
4 until the future action of the legislature or the provisions of  
5 Section 28 of this act come into effect.

1 SECTION 17. Notwithstanding any general or special law to  
2 the contrary the provisions of Sections 1, 3, 22, and 23 of this act  
3 shall remain in effect until July 1, 2002.

1 SECTION 18. The provisions of this act shall become effective  
2 on July 1, 1999.